

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER:	1931.02
COMPLAINT INVESTIGATOR:	Connie Rahe
DATE OF COMPLAINT:	June 21, 2002
DATE OF REPORT:	July 12, 2002
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	October 17, 2002

**COMPLAINT ISSUES:**

Whether the Batesville Community School Corporation and the Ripley-Ohio-Dearborn Special Education Cooperative violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically, failing to provide speech therapy as required during the 2001-2002 school year.

511 IAC 7-25-6 (i) and (j) by failing to notify the parent prior to conducting a reevaluation of the student and failing to notify the parent that the reevaluation had been conducted, as well as by failing to notify the parent of the availability of a CCC meeting to discuss the results of the reevaluation.<sup>1</sup>

511 IAC 7-27-4(a) by failing to convene the CCC to determine the student's continued eligibility for special education and related services and proposed change of placement.

**FINDINGS OF FACT:**

1. The Student is 5 years old, has completed kindergarten, and is eligible for special education and related services under the category of communication disorder.
2. The Student's IEP for the 2001-2002 school year was developed May 17, 2001, and the parent signed agreement with the identified speech therapy services, including the following:
  - Anticipated duration date: May 20, 2002; and
  - Frequency: 30 minutes, 3 times per month for a total of 90 minutes per month or 22.5 minutes per week.
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3. Speech therapy progress notes for the student:
  - Indicate that speech services were terminated on or about March 19, 2002;
  - Indicate that, from September through March, the Student received 2 speech therapy sessions per month except for December, when he received only evaluation services, and February, when he participated in 5 sessions;

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<sup>1</sup> The Division initially identified two issues related to additional evaluations based on preliminary information from the Complainant. The first issue was an alleged violation of 511 IAC 7-25-4(a). The second issue was originally identified as an alleged violation of 511 IAC 7-25-7. During the course of the investigation, however, the complainant clarified that the issue involved a reevaluation rather than an additional evaluation. As a result, the allegation of non-compliance with 511 IAC 7-25-4(a) was rescinded, and the allegation relating to 511 IAC 7-25-7 was changed to 511 IAC 7-25-6 relating to a reevaluation.

- Do not list any dates of services for April or May; and
  - Fail to include the length of any of the speech therapy sessions provided.
4. The SLP reports that each session was approximately 15 to 20 minutes in length, which would result in a total of 30 to 40 minutes of services for five of the seven months of speech services to the Student. The Complainant reports that she was first notified at the May 21, 2002, case conference that the student had received services intermittently during the second semester of the 2001-2002 school year. The CCC Summary/IEP report states that, "the [Complainant] was not pleased that the Student had not been seen for speech therapy on a regular basis this year."
  5. A reevaluation of the Student was to be completed in February 2002 to determine the Student's continued eligibility for special education and related services. The Complainant signed permission to reevaluate the Student in May 2001 and again in December 2001
  6. The "parent contact form" for referral for re-evaluation logged two mailed notices sent to the parent on November 13, 2001, and November 20, 2001. A copy of an undated note from the SLP was attached to the packet sent November 20, 2001, with the Complainant's attached reply asking why the testing would be done so early. The school advised the Complainant that the testing would occur later but did not provide a projected date for the reevaluation.
  7. The SLP conducted the three-year reevaluations from December 4 to 19, 2001. As a result of the reevaluation, the School/SLP unilaterally determined the Student no longer qualified for special education services and terminated speech therapy services in March 2002. No CCC was convened to make this determination, and no parental consent was obtained to terminate services in March 2002. The School did not notify the Complainant within 20 instructional days that the reevaluation had been completed or that a CCC could be convened at that time. The school finally contacted the Complainant on April 19, 2002, to schedule a CCC meeting.
  8. The Complainant participated in a telephone conference on May 21, 2002. The Complainant did not agree with the school's position that the Student was no longer eligible for services or the cessation of speech services. The Complainant's signature on the IEP indicates she did not agree with the school's proposal. The CCC reconvened on May 31, 2002, at which time the school and the parent agreed to the Student's continued eligibility and developed an IEP for the 2002-2003 school year.

## **CONCLUSIONS:**

1. Findings of Fact #2, #3, and #4 indicate that the Student's IEP provided for 3 to 4 sessions of speech therapy services per month, totaling 90 minutes, and continuing through the school year until May 20, 2002. However, the log of services and the SLP's report demonstrate that the School failed to provide the requisite amount of speech therapy services. Therefore, a violation of 511 IAC 7-27-7(a) is found for failing to implement the student's IEP as written.
2. 511 IAC 7-25-6 (i) provides for the parent to receive written notice no less than 20 instructional days prior to conducting a reevaluation of the student and a subsequent notice within 20 instructional days after the reevaluation has been conducted. Findings of Fact #5 and #6 reflect that the Complainant was given notice of the reevaluation, but the notice was not provided within the requisite timelines. Finding of Fact #7 indicates that the school did not provide the required written notice within 20 instructional days after the reevaluation had been conducted and failed to notify the Complainant of the availability of a CCC meeting to discuss the results of the reevaluation until more than four months after the reevaluation had been completed. Therefore, violations of 511 IAC 7-25-6 (i) and (j) are found.

3. Pursuant to 511 IAC 7-17-10, the CCC is responsible for determining a student's eligibility for special education and related services. 511 IAC 7-27-4(a) requires the CCC to convene when a change of placement is proposed or to be considered. Finding of Fact #5 demonstrates that the Student's reevaluation in December was to be used by the CCC to determine if the Student continued to qualify for services. Findings of Fact #7 and #8 indicate that the SLP tested the Student in December 2001 and terminated services to the Student in March 2002, but did not convene the CCC prior to removing the Student from services. A CCC was convened subsequent to the action taken by the SLP, and the CCC determined that services would continue. A violation of 511 IAC 7-27-4(a) is found with respect to the SLP's unilateral action in terminating services without convening the CCC.

**The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.**

**CORRECTIVE ACTION:**

The Batesville Community School Corporation and the Ripley-Ohio-Dearborn Special Education Cooperative shall:

1. Convene the CCC prior to the beginning of the 2002-2003 school year to determine the amount of compensatory speech therapy services to be provided to the Student as the result of the school's failure to provide the requisite amount of services between September and March and the total cessation of services subsequent to March 19. The CCC's discussion and consideration of the compensatory services shall be clearly delineated in the CCC Report. A copy of the CCC Report/IEP shall be submitted to the Division no later than September 4, 2002.
2. Review and, if necessary, revise its policies and procedures to ensure that parents are notified:
  - No less than 20 instructional days prior to a reevaluation being conducted;
  - No more than 20 instructional days after the reevaluation is conducted; and
  - Of the opportunity to convene a CCC to discuss the results of the reevaluation.Conduct an inservice training for appropriate staff regarding these requirements. A copy of the inservice agenda, a list of participants by name and title, and a copy of any materials provided shall be submitted to the Division no later than September 4, 2002, along with an assurance statement that the school will comply with the requirements of 511 IAC 7-25-6.
3. A written reminder shall be sent to appropriate staff that services may not be terminated and placements may not be changed without convening the CCC and obtaining the parent's consent. A copy of the memorandum and a list of recipients shall be submitted to the Division no later than September 4, 2002.